

SENATE BILL NO. 481

INTRODUCED BY D. WANZENRIED

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COMPLETION OF A CERTIFICATE OF MARRIAGE RIGHTS AND OBLIGATIONS IN ORDER TO OBTAIN A MARRIAGE LICENSE; REQUIRING THE ATTORNEY GENERAL TO PRESCRIBE THE FORM FOR THE CERTIFICATE; REQUIRING THE CLERK OF DISTRICT COURT TO MAKE THE FORMS AVAILABLE TO THE PUBLIC WITHOUT CHARGE; AND AMENDING SECTIONS 40-1-202, ~~AND~~ 40-1-203, AND 40-1-208, MCA."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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**Section 1.** Section 40-1-202, MCA, is amended to read:

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**"40-1-202. License issuance -- requirements.** When a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of \$53, the clerk of the district court shall issue a license to marry and a marriage certificate form upon being furnished:

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- (1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as provided in 40-1-213;
- (2) satisfactory proof that the marriage is not prohibited; ~~and~~
- (3) a certificate of the results of any medical examination required by the laws of this state; and
- (4) a certificate signed by both parties acknowledging the rights and obligations of marriage, as provided in [section 3]."

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**Section 2.** Section 40-1-203, MCA, is amended to read:

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**"40-1-203. Proof of age and -- medical certificate -- certificate of marriage rights and obligations required.** (1) Before a person authorized by law to issue marriage licenses may issue a marriage license, each applicant for a license shall provide a birth certificate or other satisfactory evidence of age and, if the applicant is a minor, the approval required by 40-1-213. Each female applicant, unless exempted on medical grounds by rule of the department of public health and human services, shall file with the license issuer a medical certificate

1 from a physician who is licensed to practice medicine and surgery in any state or United States territory or from  
 2 any other person authorized by rule of the department to issue a medical certificate. The certificate must state  
 3 that the applicant has been given a standard serological test, that the report of the results of the serological test  
 4 has been shown to the applicant tested, and that the other party to the proposed marriage contract has examined  
 5 the report of the serological test.

6 (2) A person who by law is able to obtain a marriage license in this state is also able to give consent to  
 7 any examinations and tests required by this section. In submitting the blood specimen to the laboratory, the  
 8 physician or other person authorized to issue a medical certificate shall designate that it is a premarital test.

9 (3) Before a person authorized by law to issue marriage licenses may issue a marriage license, both  
 10 applicants for a license shall sign and provide with the marriage license application a certificate of  
 11 acknowledgment of marriage rights and obligations, as provided in [section 3]."

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 13 **NEW SECTION. Section 3. Certificate of acknowledgment of marriage rights and obligations.** (1)

14 The attorney general shall prescribe the form for a certificate of acknowledgment of marriage rights and  
 15 obligations, which must include but is not limited to the following information:

- 16 (a) name and address of each party to the proposed marriage;  
 17 (b) an acknowledgment that marriage is a personal relationship that arises out of a civil contract to which  
 18 the consent of the parties is essential and that must be licensed, solemnized, and registered according to the law  
 19 of this state;  
 20 (c) an acknowledgment that the parties to a marriage cannot alter the legal relationship except according  
 21 to the laws of this state; and  
 22 (d) a summarization of the rights and obligations of marriage.

23 (2) The summarization of the rights and obligations of marriage must include mention of the mutual rights  
 24 and obligations conferred upon a legal spouse, including:

- 25 (a) the obligation to provide for the health, welfare, comfort, and education of the family;  
 26 (b) the obligation of parents for the support and education of their children;  
 27 (c) the right to shared ownership of marriage property;  
 28 (d) the liability for debts incurred for the necessary articles procured for the use and benefit of a married  
 29 person, the person's spouse, and minor children;  
 30 (e) the right to certain family-related benefits under taxation, inheritance, and insurance laws; and

1 (f) the continuing rights and obligations following termination of marriage to maintenance, support of  
2 children, and court-ordered custody of children.

3 (3) The attorney general shall distribute the form for a certificate of acknowledgment of marriage rights  
4 and obligations to the clerk of district court in each county. The clerk of the district court shall make the forms  
5 available to the public at no charge.

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7 **SECTION 4. SECTION 40-1-208, MCA, IS AMENDED TO READ:**

8 **"40-1-208. Penalties.** (1) An applicant for a marriage license, a physician or other person authorized  
9 by rule of the department of public health and human services to issue a medical certificate, or a person in charge  
10 of or authorized to make reports or statements for a laboratory who misrepresents the person's identity or any  
11 of the facts called for by the certificate form prescribed by 40-1-203 through 40-1-205, a licensing officer who  
12 issues a marriage license without having received the certificate form, if required, or who has reason to believe  
13 that any of the facts on the certificate form have been misrepresented and nevertheless issues a marriage  
14 license, or any person who otherwise fails to comply with the provisions of 40-1-203 through 40-1-209 is guilty  
15 of a misdemeanor and upon conviction shall be punished by a fine of not more than \$100.

16 (2) Medical certificates, laboratory statements or reports, certificates acknowledging the rights and  
17 obligations of marriage, and applications referred to in 40-1-203 through 40-1-209 are confidential and may not  
18 be divulged to or open to inspection by any person other than state or local health officers or their representatives.  
19 A person who divulges the information or opens to inspection the certificates, statements, reports, or applications,  
20 without authority, to any person not entitled to the material by law is guilty of a misdemeanor and upon conviction  
21 shall be punished by a fine of not more than \$100."

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23 **NEW SECTION. Section 5. Codification instruction.** [Section 3] is intended to be codified as an  
24 integral part of Title 40, chapter 1, part 2, and the provisions of Title 40, chapter 1, part 2, apply to [section 3].

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